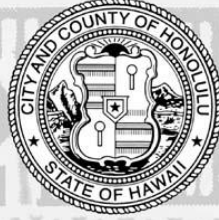


# NEWS RELEASE



**Department of  
Budget and Fiscal Services**  
CITY AND COUNTY OF HONOLULU

**FOR IMMEDIATE RELEASE**

June 24, 2011

## **REVIEW OF BID PROTESTS FINDS CITY COMPLIED WITH PROCUREMENT LAWS AND PROCEDURES**

(Fri., June 24, 2011) – The City’s Department of Budget and Fiscal Services (BFS) has rejected two bid protests regarding the awarding of the core systems contract for the Honolulu Rail Transit Project.

BFS found “no procedural or legal violations in any aspect of the procurement” for the contract.

“The protests were thoroughly reviewed, each point was considered, and on all counts the finding was that procurement law and procedures were followed throughout the evaluation and selection process,” said BFS Deputy Director Nelson Koyanagi.

The City has notified the two offerors who filed protests – Sumitomo Corporation of America and Bombardier Transportations (Holdings) USA Inc. – that their claims were rejected. The core systems contract, which consists of manufacturing the train vehicles and providing the system’s control center, was awarded to Ansaldo Honolulu in March.

As to Sumitomo, despite its claims to the contrary, the City’s review found that Ansaldo was in fact a qualified offeror and Ansaldo’s proposal provided the best value for taxpayers. Sumitomo’s allegations were reviewed and found to be unsubstantiated, according to the letter from the City.

Other findings of the review include:

- **Sumitomo’s allegation that Ansaldo’s pricing for the contract is higher than Sumitomo’s is simply false.**

While operation and maintenance costs and design-build costs varied for both vendors, the pricing evaluation was “based on the entire proposal, not individual segments,” the City’s response to Sumitomo stated. It is indisputable that the cost to taxpayers would be lower under the Ansaldo proposal considering both DB (design-build) and O&M (operation and maintenance) costs, the letter said.

Sumitomo's allegation that Ansaldo's pricing is imbalanced because it shifted design-build costs to operation and maintenance costs is not supported by the facts, the investigation showed. In addition, Sumitomo's pricing with much larger payments up front is not in the taxpayers' best interest, the review found.

- **Sumitomo's claim that the City did not properly consider Ansaldo's past performance as part of the bid proposal is incorrect.**

Past performance records for all three offerors of the project, including Ansaldo, were evaluated during the first part of the Request for Proposals (RFP) submitted by the offerors. All offerors were required to submit previous records involving completion schedule, quality of work, claims history, terminations, disciplinary actions, and safety records.

- **Sumitomo's assertion that Ansaldo was non-compliant in regards to its train control system is not factual.**

Ansaldo's specifications meet the requirements of the RFP, the letter stated.

As to Bombardier, the City's review concluded that Bombardier's claim that the City's contract selection process was flawed, is unfounded.

This review also noted that Bombardier's proposal did not follow the City's guidelines.

- **Bombardier's bid proposal was submitted with conditions to cap its liability, making the bid non-responsive, or ineligible.**

"It is undisputed by Bombardier that its proposal was conditioned," the letter stated.

According to the letter, the City repeatedly cautioned all three offerors that conditioned proposals would be rejected. In addition, the Hawaii Administrative Rules governing procurement state: "Any offer which is conditioned upon receiving a contract other than as provided for in the solicitation shall be deemed nonresponsive and not acceptable."

The review determined that Bombardier provided no credible reason to reverse the decision that it was non-responsive and had conditioned its proposal, and denied the company's request to rescind the award.

The protestors may appeal these decisions within seven calendar days to the Office of Administrative Hearings at the State Department of Commerce and Consumer Affairs (DCCA) by requesting an administrative hearing. The DCCA hearings officer must issue a decision within 45 days of an appeal.